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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------|------------------------|
| 10/773,322 | 02/09/2004 | Philippe Dauchy | Q79522 | 6649 |
| 23373 7590 07/16/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037 | | | EXAMINER CHOU, ALBERT T | |
| | | | ART UNIT 2616 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,322

Applicant(s)

DAUCHY ET AL.

Examiner

Albert T. Chou

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,699,519 to Shiobara et al. (hereinafter "Shiobara").

Regarding claim 1, Shiobara teaches a method of transmitting a packet within a telecommunication network **[Fig. 3]**, wherein a total processing time is associated with said packet **[Fig. 3; The traffic jam data indicates a delay time at each node, i.e. the processing time, due to traffic jam. The number of the packets stored in the input queue section 23 may be used as the traffic jam data; col. 7, lines 18-36]** and modified by at least some network equipments as a function of a particular processing time and said network equipments process said packet as a function of the associated total processing time **[Fig. 7, ST1-ST10; Total processing time is changed by the Determination Section 27 of the voluntary node on the basis of changing data priority or route selection; col. 9, line 45 – col. 10, line 16]**.

Regarding claims 2 and 6, Shiobara teaches said total processing time is contained in a field of said packet **[Fig. 2, The peripheral data includes receiving time limit data indicative of a time limit by which data is to be received, col. 5, lines 45-48; Fig. 3, The Section 25 derives or extracts the receiving time limit data set and inserted by the sender host apparatus, col. 6, lines 61-67]**.

Regarding claims 3 and 7, Shiobara teaches said particular processing time is determined by said network equipment as a function of the size of the queue(s) of said network equipment **[Fig. 3; The traffic jam data indicates a delay time at each node, i.e. the processing time, due to traffic jam. The number of the packets stored in the input queue section 23 may be used as the traffic jam data; col. 7, lines 18-36]**.

Regarding claims 4 and 8, Shiobara teaches said total processing time is initialized, preferably the sender of said packet, to a maximum transmission time **[Fig. 2, The peripheral data includes receiving time limit data indicative of a time limit by which data is to be received, col. 5, lines 45-48; Fig. 3, The Section 25 derives or extracts the receiving time limit data set and inserted by the sender host apparatus, col. 6, lines 61-67]** and said particular processing time is subtracted from said total processing time **[A marginal time period (i.e. the remaining total process time allowed for the packet to be delivered to its destination without exceeding the receiving time limit set by a sender host apparatus) is calculated by**

subtracting the end point of the expected delay time period from the receiving time limit; col. 9, lines 47-53].

Regarding claim 5, Shiobara teaches a network equipment of a data network **[Fig. 3]**, in particular a telecommunication network **[Fig. 2]**, having means for receiving incoming packets **[Fig. 3; Input Circuit 21/Input Section 2]**, means for sending outgoing packets **[Fig. 3; Output Section 4]**, means for evaluating a basic processing time of incoming packets **[Fig. 3; First & Second Recognition Sections 25 & 26]**, means for modifying a value representative of the total processing time contained in said incoming packets, as a function of said basic processing time **[Fig. 3; First & Second Recognition Sections 25, 26 & Determination Section 27]**, and means for choosing outgoing packets in accordance with a priority depending on said total processing time **[Fig. 3; Input Queue Section 23, Data Insertion Section 28 & Priority Control Section 29]**.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US Patent No. 6,816,458 to Kroon discloses "System And Method Prioritizing Message Packets For Transmission"

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- US Patent No. 4,894,823 to Adelman et al. disclose "Time Stamping For Packet System Nodes"
- US Patent Application Pub. No. 2004/0100949 A1 by Bennett discloses "Method For Enabling Non-Predetermined Testing Of Network Using IP Measurement Protocol Packets"

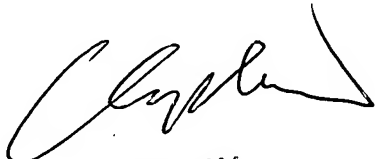
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert T. Chou whose telephone number is 571-272-6045. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham, can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Albert T. Chou

June 28, 2007 AC


CHI PHAM
SUPERVISORY PATENT EXAMINER
7/13/07